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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,804	11/24/1999	DAVID L. SALGADO	D/99253-690	5473

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EXAMINER

PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 05/23/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/448,804

Applicant(s)

SALGADO ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. In view of the supplemental appeal brief filed on March 10, 2003,  
PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Abstract***

2. The abstract submitted on 5/29/2002 is not approved.

The abstract is objected to because it fails to give necessary technical disclosure gist.

**See 37 CFR 1.72. MPEP 608.01(b) is recited below:**

(b) A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract " or "Abstract of the Disclosure. "The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark

Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure. The abstract will not be used for interpreting the scope of the claims.

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(See MPEP § 608.01(b)).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2, 12- 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146), and in view of Nakagawa et al. (US Patent 5,835,911).

5. As per independent claims 1, 12, Misra rendered by the following:

“a user interface connected to the system controller for displaying the software copyright data from the memory to a user” (a user connected to license server can access the license store information) at Fig. 2-3, col. 6, lines 6-8; col. 9, lines 62-67.

“a system controller for collecting the software copyright data from multiple platforms” Misra teaching is analogous to multiple users obtaining software license (at. Fig. 3, col. 11, lines 46-59). However, Nakagawa teaches specifically at Fig. 1, col. 9, lines 47-63. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple users. Distribution and maintenance of software license is necessary to eliminate unauthorized usage of the software.

6. As per dependent claims 2, 13, Misra teaches “the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller” at Fig. 3, col. 6, lines 50-64.

7. As per dependent claim 14, Misra teaches "the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory" at Fig. 2, col. 5, lines 40-53.

8. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146) and in view of Nakagawa et al. (US Patent 5,835,911) and further in view of Menezes et al. (US Patent 5,621,894).

9. As per independent claim 3, Misra rendered by the following:

"displaying the collected attribute data..." at Fig. 2-3, Col. 6, line 15-17;

Table 3-4, col. 9, lines 1-61.

"polling at least two platforms..." Misra teaches similar to polling is done by the client reaching the license server (at Fig. 3, col. 10, line 30-37). However, Menezes teaches specifically at Fig. 2, col. 16, lines 43-45. Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention decide to use polling other platforms/devices in the network to collect and consolidate the information in order to respond to the queried platform/device.

"collecting the attribute data..." Misra teaching is analogous to multiple users obtaining software license (at Fig. 3, col. 11, lines 46-59). However, Nakagawa teaches specifically at Fig. 1, col. 9, lines 47-63. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple users. Distribution and maintenance of software license is necessary to eliminate unauthorized usage of the software.

10. As per dependent claims 4-5, Menezes teaches "the step of polling at least two platforms for attribute data further comprises the step of automatically polling at least two platforms during power on of the at least two platforms" at Fig. 2, col. 17, lines 56-67.

11. As per claims 6 and 7, Misra teaches "the step of collecting copyright information..." at Fig. 4, col. 14, line 14-29.

12. As per claims 9, 10 and 11, Misra teaches "automatically displaying the attribute..." at Fig. 2-3, Col. 6, line 15-17; Table 3-4, col. 9, lines 1-61.

### ***Response to Arguments***

13. Applicant's arguments filed 3/10/2003 have been fully considered but they are moot in view of the new ground(s) of rejection.

The new references teach extensively the software license distribution and maintenance. The earlier reference of Menezes teaches polling in more details.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

16. If a reference indicated, as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is (703) 305-9601 for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (703) 305-3390. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

*SRP*  
Sathyanarayan Pannala  
Examiner  
Art Unit 2177

srp  
May 19, 2003

*John E. Breene*  
JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100